
BULLETIN

OF THE
NEW YORK CITY BOARD OF STANDARDS
AND APPEALS

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March 15, 2007

DIRECTORY

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DOCKETS

New Case Filed Up to March 6, 2007

57-07-BZ

636 Howard Avenue, Approximately 75 feet east of the intersection of Highland Avenue and Howard Avenue., Block 597, Lot(s) 65, Borough of **Staten Island, Community Board: 1.** (SPECIAL PERMIT) 73-30-For a non-accessory radio tower, which is a public utility wireless communications facility and will consist of a 70-foot monopole/light-post, together with antennas (and stadium flood-lights).

58-07-BZ

18-02 Clintonville Street, North west corner of 18th Avenue and Clintonville Street., Block 4731, Lot(s) 9, Borough of **Queens, Community Board: 7.** Under 72-21-To build a new 2 (two) family dwelling on a vacant tax lot.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

APRIL 10, 2007, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, April 10, 2007, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

81-74-BZ

APPLICANT – Martyn & Don Weston, for Bogopa Supermarket, Inc., owner; Food Bazaar Supermarket; lessee.

SUBJECT – Application January 29, 2007 – Extension of Term of a previously granted variance for the operation of a Use Group 6 (Food Bazaar Supermarket) in a C1-2/R6A & R6B zoning district which expired on February 27, 2007.

PREMISES AFFECTED – 97-27 57th Avenue, north side between 97th Place and 98th Street, Block 1906, Lot 1, Borough of Queens.

COMMUNITY BOARD #4Q

200-00-BZ, Vol. III

APPLICANT – Eric Palatnik, P.C., for Blans Development Corp., owner.

SUBJECT – Application January 22, 2007 – Extension of Term/Waiver of a previously approved variance, which expired on July 17, 2006 for an existing physical culture establishment at the second floor of the premises located in a R6B (C1-4) zoning district

PREMISES AFFECTED – 107-24 37th Avenue aka 37-16 108th Street, southwest corner of 108th Street and 37th Avenue, Block 1773, Lot 10, Borough of Queens.

COMMUNITY BOARD #3Q

163-04-BZII

APPLICANT – Rothkrug Rothkrug & Spector, for Mylaw Realty Corp., owner; Crunch Fitness, lessee.

SUBJECT – Application August 28, 2006 – Amendment of a special permit (§73-36) to allow the enlargement and expansion of an existing physical culture establishment into an adjoining building, and to reflect a change in the name of the operator. C2-4(R6) zoning district.

PREMISES AFFECTED – 671/99 Fulton Street, northwest corner of Fulton Street and St. Felix Street, Block 2096, Lots 66 and 69, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEALS CALENDAR

287-05-A

APPLICANT – New York City Board of Standards and Appeals.

OWNER: 32-42 33 Street, LLC, owner.

SUBJECT – Application September 15, 2005 – To consider dismissal for lack of prosecution.

PREMISES AFFECTED – 32-42 33rd Street, between Broadway and 34th Avenue, Block 612, Lot 53, Borough of Queens.

COMMUNITY BOARD #1Q

300-06-A

APPLICANT – Eric Palatnik, P.C., for Tony Wan Yiu Cheng, owner.

SUBJECT – Application November 14, 2006 – Proposed construction of a 4 story mixed use building which extends into the mapped street (44th Avenue) which is contrary to Section 35 of the General City Law. C2-5/R6-Bzoning district.

PREMISES AFFECTED – 43-17 104th Street, north side of the corner formed by the intersection of 44th Street and 104th Avenue, Block 1987, Lot 67, Borough of Queens.

COMMUNITY BOARD #4Q

17-07-BZY, 18-07-BZY, 19-07-BZY & 20-07-BZY thru 31-07-BZY

APPLICANT – Sheldon Lobel, P.C., for Chapel Farm Estates, Inc., dba Villanova Heights, Inc., owner.

SUBJECT – Application January 18, 2007 – Proposed extension of time (§11-332) to complete construction of a minor development commenced under the zoning district regulations in effect as of October 2004. R1-2 /NA-2. Zoning District.

PREMISES AFFECTED – 5000 & 5020 Iselin Avenue, 421 West 250th Street, Grosvenor Avenue & Goodridge Avenue, Block 5831, 5829, 5830 & 5839, Lots 10, 20, 30, 4018, 4025, 3912, 3920, 3940, 3630, 3635, 40, 50, 60 & 70, Borough of Bronx.

COMMUNITY BOARD #8BX

APRIL 10, 2007, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, April 10, 2007, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

CALENDAR

ZONING CALENDAR

65-06-BZ

APPLICANT – Eric Palatnik, P.C., for Lee Zhen Xiang, owner.

SUBJECT – Application April 11, 2006 – Zoning variance under § 72-21 to allow a proposed residential building containing three (3) dwelling units to violate applicable front yard (§ 23-45(a)) and side yard requirements (§ 23-462(a)). R5 district.

PREMISES AFFECTED – 72-45 43rd Avenue, corner of 43rd Avenue and 74th Street, Block 1357, Lot 46, Borough of Queens.

COMMUNITY BOARD #4Q

108-06-BZ

APPLICANT– Eric Palatnik, P.C., for S & L-G Realty Corp., owner.

SUBJECT – Application May 30, 2006 – Zoning variance under § 72-21 to allow a proposed 15-story residential building (U.G. 2) containing twenty-six (26) dwelling units and ground floor retail use (U.G. 6) to locate in an M1-6 district; contrary to §42-00 (use regulations).

PREMISES AFFECTED – 143 West 30th Street, between 6th and 7th Avenues, Block 806, Lot 4, Borough of Manhattan

COMMUNITY BOARD #5M

114-06-BZ

APPLICANT– Sheldon Lobel, P.C., for Aleksandr Levchenko, owner.

SUBJECT – Application June 6, 2006 – Special Permit (§73-622) to allow the legalization of an enlargement to a single family home in an R3-1 zoning district, which exceeds the allowable floor area ratio, open space and lot coverage (23-141); provides less than the minimum required side yards (23-48).

PREMISES AFFECTED – 124 Norfolk Street, west side of Norfolk Street between Shore Boulevard and Oriental Boulevard, Block 8756, Lot 10, Borough of Brooklyn

COMMUNITY BOARD #15BK

253-06-BZ

APPLICANT– Law Office of Fredrick A. Becker, for Jamila Maleh and Asian Azrak, owners.

SUBJECT – Application September 15, 2006 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary side yard (23-461) and rear yard (23-47) in an R4 zoning district.

PREMISES AFFECTED – 2243 Homecrest Avenue, east side of Homecrest Avenue between Avenue V and Gravesend Neck Road, Block 7373, Lot 70, Borough of Brooklyn.

COMMUNITY BOARD #15BK

14-07-BZ

APPLICANT – Ivan Khoury, Esq., for Green Tea Inc., owner; Da Spa, LLC, dba Delluva Day Spa, lessee.

SUBJECT – Application January 11, 2007 – Special Permit (§73-36) to legalize a PCE (spa) located in the Tribeca West Historic District and a M1-5 zoning district. The proposal is contrary to Section 42-10.

PREMISES AFFECTED – 152 Franklin Street, 150.33' east of the intersection of Franklin and Hudson Streets, Block 189, Lot 7506, Borough of Manhattan.

COMMUNITY BOARD #1M

41-07-BZ

APPLICANT– Ellen Hay, Wachtel & Masyr, LLP, for 17th and 10th Associates, LLC, owner; Equinox 17th Street, Inc., lessee.

SUBJECT – Application February 5, 2007 – Special Permit (73-36) to permit the proposed PCE on the cellar, ground, and mezzanine levels of a 24-story building under construction. The Premises is located in a C6-3 zoning district and Sub Area 1 of the Special West Chelsea District. The proposal is contrary to Section 22-00.

PREMISES AFFECTED – 450 West 17th Street, a/k/a 100 Tenth Avenue, east side of Tenth Avenue between West 16th and West 17th Streets, Block 714, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #4M

44-07-BZ

APPLICANT– Francis R. Angelino, Esq., for Lerad Company, owner; Rubin-Lobo LLC d/b/a Bikram Yoga NY, lessee.

SUBJECT – Application February 8, 2007 – Special Permit (§73-36) to legalize a PCE (Yoga Studio) on a portion of the second floor in a six-story mixed-use building. The Premises is located in a C1-9 zoning district. The proposal is contrary to Section 32-18.

PREMISES AFFECTED – 171-173 East 83rd Street, northwest corner East 83rd Street and Third Avenue, Block 1512, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #8M

Jeff Mulligan, Executive Director

MINUTES

REGULAR MEETING TUESDAY MORNING, MARCH 6, 2007 10:00 A.M.

Present: Chair Srinivasan, Vice Chair Collins,
Commissioner Ottley-Brown and Commissioner Hinkson.

SPECIAL ORDER CALENDAR

741-49-BZ

APPLICANT – Carl A. Sulfaro, Esq., for Hillside Auto Center S.S., Inc., owner.

SUBJECT – Application January 8, 2007 – §11-411 and §11-412 to extend the term of a variance for a gasoline service station with accessory uses for an additional period of ten years from September 23, 2005 and to amend the resolution to permit a portion of the building to be used as an accessory convenience store and to permit a metal canopy and new fuel pump. The site is located in an R-2 zoning district.

PREMISES AFFECTED – 241-15 Hillside Avenue, northwest corner of 242nd Street, Block 7909, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Carl A. Sulfaro.

ACTION OF THE BOARD – Laid over to April 10, 2007, at 10 A.M., for continued hearing.

133-94-BZ

APPLICANT – Alfonso Duarte, for Barone Properties, Inc., owner.

SUBJECT – Application November 23, 2005 – Pursuant to ZR §11-411 and §11-413 for the legalization in the change of use from automobile repair, truck rental facility and used car sales (UG16) to the sale of automobiles (UG8) and to extend the term of use for ten years which expired on September 27, 2005. The premise is located in a C1-2/R2 zoning district.

PREMISES AFFECTED – 166-11 Northern Boulevard, northwest corner of 167th Street, Block 5341, Lot 1, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Alfonso Duarte, P.E., Charles Winter.

For Opposition: Terri Pouymari, Rhea O’Gorman and Chrissy Voskerichian.

ACTION OF THE BOARD – Laid over to March 20, 2007, at 10 A.M., for continued hearing.

20-02-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for 303 Park Avenue South Leasehold Co., LLC, owner; New York Sports Club, lessee.

SUBJECT – Application September 18, 2006 – Extension of

Term/Amendment – To allow the operation of a Physical Culture Establishment/Health Club and change in hour of operation, on portions of the cellar, first floor and second floor of the existing five story mixed use loft building.

PREMISES AFFECTED – 303 Park Avenue South, northeast corner of Park Avenue South and East 23rd Street, Block 879, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Lyra Altman.

For Opposition: Kathy Grove, Marilyn Stern and Nick Lecakes.

ACTION OF THE BOARD – Laid over to April 17, 2007, at 10 A.M., for continued hearing.

98-05-BZ, Vol. II

APPLICANT – Friedman & Gotbaum, LLP by Shelly S. Friedman, Esq., for Lauto Group, Limited, c/o Anthony Lauto, owner; 48 Bonhaus Corporation, c/o Dac Bon LLC, lessee.

SUBJECT – Application December 1, 2006 – To reopen and amend a previously-approved zoning variance which allowed a residential multiple dwelling (UG 2) with ground floor retail use (UG 6) in an M1-5B district; contrary to use regulations (§42-10). Proposed modifications include: (1) minor reduction of the ground floor commercial floor area and (2) increase in mechanical space on the ground floor; and (3) the creation of a 143 sq. ft. rooftop "storage cabin." PREMISES AFFECTED – 46-48 Bond Street, north side of Bond Street 163/5’ west of the corner formed by the intersection of Bond Street and Bowery, Block 530, Lots 44 & 31, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Shelly Friedman and Doris Diether, CB #2.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4

Negative:.....0

ACTION OF THE BOARD – Laid over to March 20, 2007, at 10 A.M., for decision, hearing closed.

44-06-BZ, Vol. II

APPLICANT– Rothkrug, Rothkrug & Spector, for Philip & Laura Tuffnel, owner.

SUBJECT – Application October 13, 2006 – Rehearing of a previously granted variance (§72-21) the vertical enlargement of an existing single family home, to permit notification of affected property owners and public officials in an R3A zoning district.

PREMISES AFFECTED – 150-24 18th Avenue, south side of 18th Avenue, 215’ east of intersection with 150th Street, Block 4687, Lot 43, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

MINUTES

For Applicant: Adam W. Rothkrug.

ACTION OF THE BOARD – Laid over to April 10, 2007, at 10 A.M., for continued hearing.

APPEALS CALENDAR

77-06-A & 78-06-A

APPLICANT – Stephen J. Rizzo, Esq., for Block 7092 LLC, owner.

SUBJECT – Application April 27, 2006 – An appeal seeking a determination that the owner of said premises has acquired a common law vested right to continue development commenced under the zoning district regulations in effect as of March 1999. R3-2 Zoning District.

PREMISES AFFECTED – 96 Crabtree Avenue, Woodrow Road east of Turner Street, Block 7092, Lot 1, Block 7105, Lots 555 & 561, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Bradley Green.

ACTION OF THE BOARD – Appeal granted.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an appeal requesting a Board determination that the owner of the premises has obtained the right to complete a multiple-unit residential development under the common law doctrine of vested rights; and

WHEREAS, a public hearing was held on this appeal on January 23, 2007, after due notice by publication in *The City Record*, with a continued hearing on February 13, 2007, and then to decision on March 6, 2007; and

WHEREAS, the site was inspected by a committee of the Board, consisting of Chair Srinivasan and Commissioner Hinkson; and

WHEREAS, Community Board 3, Staten Island, opposed this appeal, citing concerns about overdevelopment; and

WHEREAS, the appellant states that the subject premises consists of an approximately 65,187 sq. ft. development site on Block 7092 and an approximately 87,500 sq. ft. development site on Block 7105, with proposed private roads connecting the two blocks; and

WHEREAS, the appellant proposes to develop the entire two-block site with 56 two-family homes with garages; and

WHEREAS, when the development commenced in 1996, the site was located within an R3-2 zoning district; and

WHEREAS, in May of 1996, surveys of the site were completed, and in June of 1996, the developer hired an architectural firm to oversee the development; and

WHEREAS, in 1997, the developer proceeded to subdivide the subject blocks into 56 separate tax lots, secured a site plan approval, and sought foundation permits from the

Department of Buildings (DOB) for each proposed home, all of which were obtained by March of 1999; and

WHEREAS, subsequently, foundation work commenced and 32 foundations were completed (eight of 32 on Block 7105 and all 24 on Block 7092); and

WHEREAS, also in 1999, this developer began to install sewer infrastructure, which would service the entire development; and

WHEREAS, however, full sewer approvals took longer than expected to obtain and work ceased in 1999 after the 32 foundations were constructed; and

WHEREAS, in June of 1999, the developer hired an engineering firm to obtain the needed sewer approvals, and more sewer work was performed; and

WHEREAS, on February 6, 2002, the City Planning Commission (CPC) enacted a text change to ZR §26-21, which changed the minimum private road width regulation for the site from 30 to 35 feet; and

WHEREAS, the proposed private road street did not comply with the new width requirement; and

WHEREAS, nevertheless, since foundation work that constrained the width of the private road was completed prior to the enactment of the text change, the developer was able to obtain a reconsideration from DOB that vested the existing street width, dated March 8, 2002 (the “Reconsideration”); and

WHEREAS, after the Reconsideration was issued, the developer continued to attempt to obtain further sewer approvals, necessary in order to obtain new building permits; and

WHEREAS, however, on August 14, 2004 (the “Enactment Date”), CPC enacted the Lower Density Growth Management text amendment (the “LDGMA”), which rendered the proposed development non-complying in terms of minimum lot area (the requirement is now 3,800 sq. ft.) and minimum lot width (the requirement is now 40 feet); and

WHEREAS, accordingly, the appellant seeks a Board determination that it has vested its right to complete the development as originally proposed based upon the already completed work, without regard to the LDGMA; and

WHEREAS, the Board has reviewed this chronology of events as stated by the appellant, and notes that DOB recently limited the scope of the Reconsideration in a decision dated April 17, 2006, finding that it concerned only the width of the street but not the development in its entirety; and

WHEREAS, however, the Board observes that while the appellant cited to the April 17 decision as the basis for the Board’s jurisdiction to hear the common law vesting claim, the substance of the determination, as well as the substance of the Reconsideration, is not before it; and

WHEREAS, having discussed the chronology of events, the appellant then must establish whether work proceeded under valid permits; and

WHEREAS, the appellant represents it obtained the requisite work permits on March 8, 1999; and

WHEREAS, the Board observes that there is no evidence in the record that indicates these permits were invalid upon issuance, and further observes that DOB has not indicated to the Board that they are invalid; and

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WHEREAS, assuming that valid permits had been issued and that work proceeded under them, the Board notes that a common law vested right to continue construction generally exists where: (1) the owner has undertaken substantial construction; (2) the owner has made substantial expenditures; and (3) serious loss will result if the owner is denied the right to proceed under the prior zoning; and

WHEREAS, specifically, as held in Putnam Armonk, Inc. v. Town of Southeast, 52 A.D.2d 10 (2d Dept. 1976), where a restrictive amendment to a zoning ordinance is enacted, the owner's rights under the prior ordinance are deemed vested "and will not be disturbed where enforcement [of new zoning requirements] would cause 'serious loss' to the owner," and "where substantial construction had been undertaken and substantial expenditures made prior to the effective date of the ordinance."; and

WHEREAS, however, notwithstanding this general framework, as discussed by the court in Kadin v. Bennett, 163 A.D.2d 308 (2d Dept. 1990) "there is no fixed formula which measures the content of all the circumstances whereby a party is said to possess 'a vested right'. Rather, it is a term which sums up a determination that the facts of the case render it inequitable that the State impede the individual from taking certain action"; and

WHEREAS, further, the Board notes that where a multi-unit development is planned as a single integrated development, it may be subject to a separate line of cases that establish the Single Integrated Project Theory (or "SIPT"); and

WHEREAS, the SIPT allows a developer to vest uncompleted, even uninitiated, components of a larger development project where there has been plat or subdivision approval (see e.g. Telimar Homes v. Miller, 14 A.D.2d 586 (2nd Dep't, 1961); Putnam Armonk Inc. v. Town of Southeast, 52 A.D.2d 10, (2nd Dep't, 1976); and Cypress Estates, Inc. v. Moore, 273 N.Y.S.2d 509, (Sup. 1966)); and

WHEREAS, the Board has reviewed the relevant cases, and observes that the SIPT may be applicable to a vesting determination if the following requirements are met: (1) the reviewing approval body was on notice that the various buildings were intended to be part of larger, integrated development; (2) some work has been performed on a fundamental component of the development, pursuant to an approval; (3) some expenditure and physical work that benefits all of the components of the development (such as roads or sewers) has been undertaken; (4) economic loss would result from the inability to proceed under the prior zoning, due to the inability to adapt the work to a complying development; and (5) no overriding public concern related to the new zoning exists; and

WHEREAS, as established below, the appellant addressed both the typical vesting concerns as to work, expenditure, and serious loss, as well as the SIPT factors; and

WHEREAS, as to substantial construction, the appellant states that before the Enactment Date, the developer prepared the site, conducted test borings, installed

some sewer infrastructure, excavated over 155,500 sq. ft. on both blocks, and poured concrete for 32 foundations over a three-month period; and

WHEREAS, specifically, the developer showed that approximately 1,073 yards of concrete were poured prior to the Enactment Date; and

WHEREAS, in support of the assertion that substantial construction was performed, the appellant submitted the following evidence: photographs of the site, a site plan showing the amount of work completed, affidavits, and copies of pour tickets; and

WHEREAS, based upon the above evidence, the Board concludes that a significant amount of work was performed at the site prior to the Enactment Date; and

WHEREAS, as to expenditure, the Board notes that unlike an application for relief under ZR § 11-30 et seq., soft costs and irrevocable financial commitments can be considered in an application under the common law; accordingly, these costs are appropriately included in the appellant's analysis; and

WHEREAS, the appellant states that prior to the Enactment Date, the owner expended a total of approximately 1.65 million dollars out of a total of approximately 3.9 million dollars required for the project (or 42 percent); and

WHEREAS, said expenditures related to excavation, foundation, labor and materials costs, as well as architectural, engineering and expediting costs; and

WHEREAS, as proof of the expenditures, the appellant has submitted invoices, cancelled checks, and accounting reports; and

WHEREAS, the Board considers the amount of expenditures significant, both in of itself for a project of this size, and when compared against the total development costs; and

WHEREAS, the Board's consideration is guided by the percentages of expenditure cited by New York courts considering how much expenditure is needed to vest rights under a prior zoning regime; and

WHEREAS, as to serious loss, such a determination may be based in part upon a showing that certain of the expenditures could not be recouped if the development proceeded under the new zoning and in part upon a showing that income would be reduced due to lost units or density; and

WHEREAS, the appellant explains that all of the 56 proposed lots – including the 32 already developed with foundations – are substandard in terms of lot area and width as to the LDGMA; and

WHEREAS, the appellant explains that compliance with the present minimum lot area and width provisions would reduce the amount of proposed units to 37, resulting in the need for new surveys, lot subdivisions, street redesign, and new architectural plans, at an estimated cost of \$185,000; and

WHEREAS, further, the appellant explains that the existing foundations would have to be removed at a cost of \$400,000 in hard costs, and approximately \$800,000 in carrying and reconstruction costs; and

WHEREAS, additionally, the appellant contends that the reduced unit count would lead to a diminished profit over the entire development site; and

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WHEREAS, the Board agrees that the non-recoupable expenditures related to the existing foundations, the demolition and reconstruction costs, and the lost revenue arising from the reduced unit count, when viewed in the aggregate, constitute a serious economic loss, and that the supporting data submitted by the appellant supports this conclusion; and

WHEREAS, finally, the Board asked why that portion of Block 7105 where no foundation work was performed could not be developed with homes that complied with the LDGMA; and

WHEREAS, the appellant responded that under the SIPT, the developer was entitled to treat the entire development site as one, and that through construction of the 32 foundations and other global site preparation, including the installation of infrastructure benefiting the entire development, it was entitled to continue construction of all initially proposed homes; and

WHEREAS, the Board agrees that the appellant has established that the development qualifies as an integrated development under the SIPT, since all factors enumerated above have been satisfied; and

WHEREAS, specifically, the applicant showed that: (1) DOB approved a site plan showing the entire 56-unit development, and was therefore on notice that it was intended to be a single integrated residential project; (2) significant excavation, site preparation and foundation work has been performed; (3) expenditures were made and work was conducted on infrastructure that benefits the entire development, namely the sewer expenditures and construction, and expenditures related to the private roads; (4) economic loss would result from the inability to proceed under the prior zoning, due to the inability to adapt the completed foundation work to a complying development; and (5) no overriding public concern related to the new zoning exists; and

WHEREAS, as to this last factor, the Board observes that while the LDGMA reflects a serious legislative concern about perceived overdevelopment on Staten Island, the fact that the proposed development was planned and acted upon well prior to the Enactment Date negates any argument that the pertinent LGDMA provisions override the developer's otherwise strong vested rights claim, especially in light of the developer's diligence in attempting to obtain sewer approvals that unexpectedly delayed further development; and

WHEREAS, in sum, the Board has reviewed the representations as to the work performed, the expenditures made, and serious loss, the supporting documentation for such representations, as well as the discussion of the SIPT, and agrees that the appellant has satisfactorily established that a vested right to complete construction of all 56 of the proposed homes had accrued to the owner of the premises as of the Enactment Date.

Therefore it is Resolved that this appeal made pursuant to the common law of vested rights requesting a reinstatement of DOB Permit Nos. 500343755-01 EQ-FN 500253637, 500253628, 500253619, 500253593, 500253824,

500253815, 500253806, 500253799, 500253780,
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500253600, 500253655, 500253711, as well as all related permits for various work types, either already issued or necessary to complete construction and obtain a certificate of occupancy, is granted for four years from the date of this grant.

Adopted by the Board of Standards and Appeals, March 6, 2007.

305-06-A

APPLICANT – Walter T. Gorman, P.E., for Breezy Point Cooperative Incorporated, owner, Thomas Neary, lessee.

SUBJECT – Application November 21, 2006 – Proposed reconstruction and enlargement of an existing one family dwelling not fronting on a mapped street, Roosevelt Walk, contrary to Article 3, Section 36 of the General City Law. R4 Zoning District.

PREMISES AFFECTED – 9 Roosevelt Walk, Eastside 171.22' south of Oceanside Avenue. Block 16350, Lot p/o 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: John Ronan.

ACTION OF THE BOARD – Appeal granted.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4

Negative:.....0

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated November 8, 2006, acting on Department of Buildings Application No. 402488571, reads in pertinent part:

“1 - Proposal to enlarge the existing first floor and construct a new second floor at home which lies within an R4 zoning district but does not front on mapped street (Roosevelt Walk) is contrary to Art. 3, Sect. 36 (2) of the General City Law; and must, therefore, be referred to the Board of Standards and Appeals for approval.”; and

WHEREAS, a public hearing was held on this

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application on March 6, 2007 after due notice by publication in the *City Record*, and then to closure and decision on this same date; and

WHEREAS, by letter dated March 6, 2007, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated November 8, 2006, acting on Department of Buildings Application No. 402488571, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received November 21, 2006"–(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 6, 2007.

232-06-A

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for Sunset Park, LLC, owner.

SUBJECT – Application September 11, 2006 – Proposed two family dwelling that does not front on a legally mapped street contrary to Article 3, Section 36 of the General City Law. R3-1 Zoning District.

PREMISES AFFECTED – 28 Sand Court, South side of Sand Court, 157 feet west of Father Capodanno Boulevard, Block 3122, Lot 213, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Adam W. Rothkrug.

For Opposition: Anthony Scaduto, Fire Department.

ACTION OF THE BOARD – Laid over to April 10, 2007, at 10 A.M., for continued hearing.

12-07-A

APPLICANT – David L Businelli, R.A., AIA, for Mr. Thomas Tuminello, owner.

SUBJECT – Application January 10, 2007 – Proposed construction of a one family dwelling not fronting on mapped street, contrary to Article 3, Section 36 of the General City Law. R3X Zoning District.

PREMISES AFFECTED – 25 Allegro Street, North side of Allegro Street, 101.33 southwest corner of Bertram Avenue and Allegro Street. Block 6462, Lot 44, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to March 20, 2007, at 10 A.M., for postponed hearing.

Jeffrey Mulligan, Executive Director

Adjourned: A.M.

REGULAR MEETING TUESDAY AFTERNOON, MARCH 6, 2007 1:30 P.M.

Present: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson.

ZONING CALENDAR

82-06-BZ

CEQR #06-BSA-081Q

APPLICANT – Eric Palatnik, P.C., for Utopia Associates, owner; Yum Brands, Inc., lessee.

SUBJECT – Application May 2, 2006 – Pursuant to Z.R. §72-21 to request a variance to permit the re-development of an existing non-conforming eating and drinking establishment (Use Group 6) with an accessory drive-thru located in an R3-2 zoning district and contrary to Z.R. §22-00. The existing accessory drive-thru was authorized through a prior BSA approval (168-92-BZ). The proposal would create a new eating and drinking establishment (Use Group 6) with accessory drive-thru.

PREMISES AFFECTED – 172-12 Northern Boulevard, between 172nd Street and Utopia Parkway, Block 5511, Lot 1, Borough of Queens.

COMMUNITY BOARD # 7Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT–

Affirmative: Chair Srinivasan, Vice Chair Collins and Commissioner Hinkson.....3

Negative: Commissioner Ottley-Brown.....1

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated April 20, 2006, acting on Department of Buildings Application No. 402367185, reads in pertinent part: "Application pursuant to ZR Section 72-21 to vary ZR Section 22-00 to re-instate the previous variance

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to permit the proposed redevelopment of the existing Use Group 6 eating and drinking establishment with accessory drive through within this R3-2 zoning district.”; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R3-2 zoning district, the construction of a one-story commercial building to be occupied as a Use Group 6 eating and drinking establishment with a drive-through facility, which is contrary to ZR § 22-00; and

WHEREAS, a public hearing was held on this application on October 17, 2006, after due notice by publication in the *City Record*, with continued hearings on November 21, 2006, January 9, 2007, and February 6, 2007, and then to decision on February 27, 2007; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Collins, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 7, Queens, recommends approval of the application on the condition that: (1) removable bollards be installed in the parking area adjacent to the home on Utopia Parkway to close off that area from 10 p.m. to 10 a.m.; (2) guardrails be installed along the perimeter of the property adjacent to residential uses; (3) traffic control measures, including signage, be installed; (4) a sound wall be installed around the perimeter of the site; (5) all lighting be directed down and away from adjacent residences; (6) a sound wall be installed along a portion of the 172nd Street frontage and a wrought iron fence be installed along the remainder; (7) fencing along Utopia Parkway, south of the curb cut, be six feet in height; (8) landscaping and screening be installed adjacent to residences; (9) hours of operation be limited to 10 a.m. through midnight for the dining room and 10 a.m. to 4 a.m. for the drive-through; (10) the site be well maintained; (11) security be provided, if required; and (12) rodent control measures be followed during construction; and

WHEREAS, at hearing, the Community Board provided testimony in support of the application, stating that the proposed changes would improve the area; and

WHEREAS, the site is located on the south side of Northern Boulevard between 172nd Street and Utopia Parkway; and

WHEREAS, the site has a lot area of 23,032 sq. ft.; and

WHEREAS, the site is the subject of a prior Board variance, under BSA Cal. No. 168-92-BZ, permitting a drive-through facility accessory to an existing non-conforming eating and drinking establishment (UG 6); and

WHEREAS, the building is a one-story 2,171.8 sq. ft. (0.09 FAR) commercial structure, with an accessory parking lot with 26 parking spaces; and

WHEREAS, the building remains occupied by an eating and drinking establishment with a drive-through facility; and

WHEREAS, the eating and drinking establishment is operated as a Taco Bell; and

WHEREAS, the applicant proposes to demolish the existing building; and

WHEREAS, the applicant proposes to build a one-story commercial building to be occupied by the same use; and

WHEREAS, the new building will have approximately 3,450 sq. ft. of floor area (0.15 FAR); the R3-2 zoning district regulations permit a maximum floor area of 11,516 sq. ft. (0.5 FAR or 0.6 with attic) for a residential use; and

WHEREAS, additionally, the applicant proposes to provide 25 accessory off-street parking spaces; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: (1) the site is located at the intersection of two heavily-trafficked four lane arterial roadways and is not marketable for residential use, (2) the irregularity of the lot, and (3) the obsolescence of the building for modern restaurant or retail use; and

WHEREAS, as to the location of the site and its impact on conforming residential development, the applicant states that both Northern Boulevard and Utopia Parkway are heavily-trafficked four lane arterial roadways and that the site has frontage on both, as well as on 172nd Street; and

WHEREAS, the applicant asserts that the adjacency of such arterials, as well as the occupancy of the three other corners at the intersection by a gasoline service station, commercial office building, and retail businesses, render the site unmarketable for residential use given the general undesirability of the proximity to highly trafficked roads and a concentration of commercial uses; and

WHEREAS, at the request of the Board, the applicant provided a land use map illustrating the uses on the seven blocks on each side of Northern Boulevard surrounding the site, in order to establish the frequency of commercial uses; and

WHEREAS, this map shows that 25 out of 29 sites fronting on Northern Boulevard are occupied by commercial uses, industrial uses, or parking lots that were developed before 1972; the four residential uses were developed prior to 1966; and

WHEREAS, the Board also observes that the lot is L-shaped and that this creates additional frontage along a second major thoroughfare (Utopia Parkway) which makes it even less marketable for residential use; and

WHEREAS, further, because of the site's shape, it occupies a full blockfront along Northern Boulevard at a major intersection (Northern Boulevard and Utopia Parkway); and

WHEREAS, the Board concludes that these locational concerns, which are magnified due to the lot's shape, compromise conforming residential development, as evidenced by the historical pattern of development in the vicinity along Northern Boulevard; and

WHEREAS, as to the uniqueness of this condition, the applicant represents that this is the only L-shaped lot completely within a 400-ft. radius of the site; there is one other L-shaped lot at the edge of the radius, which is significantly larger and not at the intersection of two wide streets; and

WHEREAS, the applicant represents that the location at the intersection of Northern Boulevard and Utopia Parkway – two 100 ft. wide major thoroughfares – is not a viable condition for residential use; and

WHEREAS, further, the applicant notes that because the lot occupies a full blockfront and is L-shaped, the result is that

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approximately 344 feet out of a total of 444 feet (77 percent) of frontage are located on either Northern Boulevard or Utopia Parkway, with only approximately 100 feet of frontage on 172nd Street, the least trafficked of the three thoroughfares; and

WHEREAS, as to the obsolescence of the building, the applicant represents that the deficiencies in the building render it infeasible either for its current use as an eating and drinking establishment with accessory drive-through, or as retail use; and

WHEREAS, first, the applicant represents that the existing building could not be used efficiently by another similar eating and drinking establishment since such uses now universally require a larger building in order to accommodate modern facilities; and

WHEREAS, specifically, the applicant represents that (1) the kitchen is too small and cannot be used safely or efficiently, (2) the cellar is inefficient for storage and is not handicapped-accessible, (3) the dining area and restrooms do not meet American with Disabilities Act accessibility guidelines, and (4) the drive-through configuration, limited to a single window, is inefficient; and

WHEREAS, the applicant also represents that the building is too small to be retrofitted within the existing envelope to accommodate these modern requirements; and

WHEREAS, the applicant represents that the building is also not suitable for retail use because there is not enough pedestrian traffic to make a retail use at the site financially viable within the existing building, given its size and the minimum rent required for a retail establishment; and

WHEREAS, additionally, the physical limitations noted above would also limit the viability of the existing building for a modern retail use; and

WHEREAS, accordingly, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant also suggested that the history of non-conforming use at the site contributes to the hardship; and

WHEREAS, the Board does not find that the applicant has established that this condition contributes to the hardship at the site, particularly given the fact that the applicant plans to demolish the existing building, and has not considered it in its determination; and

WHEREAS, the applicant asserts that because of the cited unique physical conditions, there is no reasonable possibility that the development of the property in strict conformance with zoning district regulations will bring a reasonable return to the owner; and

WHEREAS, the applicant submitted a feasibility study analyzing a conforming residential use at the site and continued non-conforming use of the existing building; both the existing eating and drinking establishment and UG 6 retail were analyzed; and

WHEREAS, the applicant concluded that none of these scenarios would be financially viable; and

WHEREAS, at hearing, the Board asked the applicant to

provide additional evidence to support the claim that a feasible return could not be achieved by maintaining the current eating and drinking use or re-using the existing building for a UG 6 retail tenant; and

WHEREAS, in response, the applicant provided information about the required rate of return for the existing use which reflects that the owner cannot achieve its minimum required rate of return, set by a corporate standard, and would cease operations at the site; and

WHEREAS, further, as noted above, the applicant represents that the site could not sustain a use comparable to the existing one, because the building is functionally obsolete; and

WHEREAS, additionally, the applicant provided information that shows that the anticipated rental income for a retail use in the existing building would not realize a reasonable return; and

WHEREAS, specifically, the applicant represents that the only kind of retail use that might realize a sufficient return would be one such as a 24-hour national brand convenience store which would be less compatible with the neighborhood; and

WHEREAS, the applicant asserts that because the site is significantly underdeveloped, the rent required to maintain the entire site is higher, and not in proportion with the amount of floor area available for rent in the existing building; and

WHEREAS, the Board also asked the applicant to justify the necessity of the drive-through facility; and

WHEREAS, the applicant represents that the drive-through represents a significant portion of this business and generates the income necessary to make the site viable; and

WHEREAS, as noted above, the applicant states that the existing one-window drive-through configuration is inefficient and cannot compete with modern two-window drive through operations; and

WHEREAS, the Board notes that the prior variance, under BSA Cal. No. 168-92-BZ, established that a drive-through was necessary for the restaurant at the site to realize a reasonable return; and

WHEREAS, based upon its review of the above-mentioned submissions, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with applicable zoning requirements will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant states that the site is located in a mixed-use area characterized by commercial uses along Northern Boulevard, with residential uses primarily on the side streets behind them; and

WHEREAS, the applicant represents that all of the Community Board's concerns about the proposed development have been addressed and resolved to the Community Board's satisfaction; and

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WHEREAS, these concerns include measures that address: (1) traffic circulation and parking lot usage, (2) noise control, and (3) site planning; and

WHEREAS, as to traffic control, the applicant proposes to re-design the traffic pattern at the site by re-orienting the drive-through facility to provide a clear path from entrance to exit and eliminating one of the curb cuts on Northern Boulevard; and

WHEREAS, the applicant also proposes to install guardrails and signage to direct traffic, as requested by the Community Board; and

WHEREAS, further, the applicant redesigned the parking layout and will limit the hours of use of the parking area on the Utopia Parkway side of the site; and

WHEREAS, as to noise control measures, the applicant proposes to install a sound wall along a portion of the Utopia Parkway frontage, a portion of the 172nd Street frontage, and at the rear lot line adjacent to the residential use; and

WHEREAS, the applicant analyzed several wall heights and concluded that a wall of six feet in height would be sufficient to block the sound and screen the drive-through window from the adjacent residential uses, yet not be too obtrusive; and

WHEREAS, as to site design, the applicant also proposes to provide landscaping and screening above the wall in order to be more compatible with the adjacent residential uses; and

WHEREAS, additionally, the applicant relocated the garbage enclosure further away from residential uses and closer to Northern Boulevard; and

WHEREAS, the Board notes that the applicant analyzed reorienting the building on the site, but determined that the current location allows for the most efficient traffic pattern and parking layout; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the pre-existing unique physical conditions cited above; and

WHEREAS, the applicant represents that the requested site modifications to allow for a continued nonconforming use are the minimum required to realize a reasonable rate of return; and

WHEREAS, accordingly, the Board finds that the variance request is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to Sections 617.6(h) and 617.2(h) of 6NYCRR; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 06BSA091Q, dated

August 23, 2006; and

WHEREAS, the EAS documents show that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site within an R3-2 zoning district, the construction of a one-story commercial building to be occupied as a UG 6 eating and drinking establishment with a drive-through facility, which is contrary to ZR § 22-00; and *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received February 5, 2007"–(7) sheets; and *on further condition*:

THAT the following are the bulk parameters of the new building: two stories, a total floor area of 3,450 sq. ft. (0.15 FAR), a street wall height of 19'-8 1/2", a total height of 24'-3 3/4", one side yard of 13.1 feet, one front yard of 44.6 feet, and 25 parking spaces, all as indicated on the BSA-approved plans;

THAT the hours of operation for the dining room shall be limited to 10 a.m. through midnight, daily and the hours of operation for the drive through shall be limited to 10 a.m. to 4 a.m., daily;

THAT all parking lot lighting shall be directed towards the ground and away from adjacent residential uses;

THAT landscaping, fencing, and sound walls be provided as indicated on the BSA-approved plans;

THAT all signage shall comply with C1 zoning district regulations and be as indicated on the BSA-approved plans;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the hours of the Utopia Parkway parking area shall be limited to 10 a.m. to 10 p.m., daily, and shall be closed off at other times;

THAT the above conditions shall appear on the certificate of occupancy;

THAT this approval is limited to the relief granted by the

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Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 6, 2007.

96-06-BZ

CEQR #06-BSA-086M

APPLICANT – Stuart A. Klein, Esq., for West Properties, Inc., owner; Acqua Beauty Bar NY, Inc., lessee.

SUBJECT – Application May 15, 2006 – Special Permit (§73-36) to permit, in a C5-P zoning district located within the Midtown Special District and Preservation Subdistrict, the placement of a Spa within the cellar, first and second floors of an existing six (6) story commercial building. The proposal is contrary to section 32-10.

PREMISES AFFECTED – 39 West 56th Street, north side of 56th Street between 5th and 6th Avenues, Block 1272, Lot 14, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Commissioner, dated April 24, 2006, acting on Department of Buildings Application No. 104265368, reads in pertinent part:

“Proposed use physical cultural or health establishment is not permitted as of right and is contrary to ZR 32-10.”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C5P zoning district within the Special Midtown District and the Preservation Subdistrict, the establishment of a physical culture establishment (PCE) on portions of the cellar level and the first and second floors of a five-story and penthouse commercial building, contrary to ZR § 32-00; and

WHEREAS, a public hearing was held on this application on February 13, 2007 after due notice by publication in *The City Record*, and then to decision on March 6, 2007; and

WHEREAS, Community Board 5, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the north side of West 56th Street, between Fifth Avenue and Sixth

Avenue; and

WHEREAS, the site is occupied by a five-story with penthouse commercial building, with offices and retail use; and

WHEREAS, the PCE will be operated as Townhouse Spa; and

WHEREAS, the PCE will occupy a total of 5,708.37 sq. ft. of floor space in the cellar level and on the first and second floors; and

WHEREAS, the applicant represents that the PCE will offer spa services including massages; and

WHEREAS, the proposed hours of operation are: Monday through Friday, 6:00 a.m. to 11:00 p.m.; and Saturday and Sunday, 7:00 a.m. to 9:00 p.m.; and

WHEREAS, the Board finds that this action will neither: 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 06BSA086M dated June 23, 2006; and

WHEREAS, the EAS documents show that the operation of the PCE would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, the Board has determined that the operation of the PCE will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each

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and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C5P zoning district within the Special Midtown District and the Preservation Subdistrict, the establishment of a physical culture establishment on portions of the cellar level and the first and second floors of a five-story and penthouse commercial building, contrary to ZR § 32-00; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received December 27, 2006"–(4) sheets; and *on further condition*:

THAT the term of this grant shall expire on March 6, 2017;

THAT there shall be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board;

THAT the hours of operation shall be limited to: Monday through Friday, 6:00 a.m. to 11:00 p.m.; and Saturday and Sunday, 7:00 a.m. to 9:00 p.m.;

THAT massages shall only be performed by New York State licensed massage therapists;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 6, 2007.

97-06-BZ

CEQR #06-BSA-087M

APPLICANT – Stuart A. Klein, Esq., for BFB Partners, LLC, owner; Thai Privilege Spa Company (NY), Limited, lessee.

SUBJECT – Application May 15, 2006 – Special Permit (§73-36) to permit, in an M1-5A zoning district located within the Landmark's Preservation Commission's Shoh Cast Iron District, the placement of a physical culture establishment (PCE) within a portion of an existing six (6) story commercial building.

PREMISES AFFECTED – 153-155 Spring Street, a/k/a 411 West Broadway, frontage east side of West Broadway, Block 501, Lot 37, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on

condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Commissioner, dated April 13, 2006, acting on Department of Buildings Application No. 104335015, reads in pertinent part:

“Proposed Physical Cultural Establishment is not permitted as of right in M1-5 zoning district and it is contrary to ZR 42-10.”; and

WHEREAS, this is an application under ZR §§73-36 and 73-03, to permit, on a site within an M1-5A zoning district within the Soho Cast Iron Historic District, the establishment of a physical culture establishment (PCE) on the second floor of an existing six-story commercial building, contrary to ZR §42-00; and

WHEREAS, a public hearing was held on this application on February 13, 2007 after due notice by publication in *The City Record*, and then to decision on March 6, 2007; and

WHEREAS, Community Board 2, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the north side of Spring Street, between Wooster Street and West Broadway; and

WHEREAS, the site is occupied by a six-story commercial building, with offices and retail use; and

WHEREAS, the PCE will occupy a total of 5,500 sq. ft. of floor area on the second floor; and

WHEREAS, the applicant represents that the PCE will offer spa services including massages; and

WHEREAS, the proposed hours of operation are: Monday through Friday, 6:00 a.m. to 11:00 p.m.; and Saturday and Sunday, 7:30 a.m. to 9:00 p.m.; and

WHEREAS, the Board finds that this action will neither: 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Landmarks Preservation Commission issued a Certificate of No Effect, dated November 11, 2005; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that

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the evidence in the record supports the requisite findings pursuant to ZR §§73-36 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 06BSA087M dated June 3, 2006; and

WHEREAS, the EAS documents show that the operation of the PCE would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, the Board has determined that the operation of the PCE will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-5A zoning district within the Soho Cast Iron Historic District, the establishment of a physical culture establishment on the second floor of an existing six-story commercial building, contrary to ZR § 42-00; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received January 4, 2007"-(2) sheets and "Received December 13, 2006"-(4) sheets and *on further condition*:

THAT the term of this grant shall expire on March 6, 2017;

THAT there shall be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board;

THAT the hours of operation shall be limited to: Monday through Friday, 6:00 a.m. to 11:00 p.m.; and Saturday and Sunday, 7:30 a.m. to 9:00 p.m.;

THAT massages shall only be performed by New York State licensed massage therapists;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

THAT the approved plans shall be considered

approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 6, 2007.

180-06-BZ

CEQR #07-BSA-009M

APPLICANT– Kramer Levin Naftalis & Frankel, LLP, for Yeshiva University, owner.

SUBJECT – Application August 18, 2006 – Zoning variance to allow a new six (6) story academic building (UG3) for Yeshiva University that would violate applicable lot coverage (§24-11), rear yard (§24-36 and §24-391) and height and setback requirements (§24-522).

PREMISES AFFECTED – 515 West 185th Street, northwest corner of Amsterdam Avenue and West 185th Street, Block 2156, Lots 46, 61, 64, 146, 147, Borough of Manhattan.

COMMUNITY BOARD #12M

APPEARANCES –

For Applicant: Al Fredericks.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Commissioner, dated August 16, 2006, acting on Department of Buildings Application No. 104478815, reads in pertinent part:

- “1. Proposed lot coverage is contrary to ZR 24-11 in that it exceeds the permitted lot coverage.
2. Proposed rear yard at interior lots with frontage on West 185th Street is contrary to ZR 24-36 and ZR 24-391 in that minimum 30’ rear yard is required.
3. Proposed portion of the building is contrary to ZR 24-51 in that it is not a permitted obstruction in the sky exposure plane and required setback.
4. Proposed height of front wall portion of the building located at the West 185th Street line is contrary to ZR 24-522 in that it exceeds the maximum height of 60 ft. and it is not permitted in the initial setback of 15 ft. on the wide street and shall not penetrate the sky exposure plane.
5. Proposed height of front wall portion of the building located at the Washington Terrace street line is contrary to ZR 24-522 in that it exceeds the maximum height of 60 ft. and is not permitted in the initial setback of 20 ft. on the narrow street

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and shall not penetrate the sky exposure plane.”; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R7-2 zoning district, the construction of a new six-story academic building (the “New Building”) and the legalization of an existing library building (the “Library”), which results in non-compliances with zoning requirements related to lot coverage, rear yard, sky exposure plane permitted obstructions, front wall height, setback, and sky exposure plane, contrary to ZR §§24-11, 24-36, 24-391, 24-51, and 24-522; and

WHEREAS, a public hearing was held on this application on December 5, 2006, after due notice by publication in the *City Record*, and then to decision on March 6, 2007; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan; and

WHEREAS, Community Board 12, Manhattan, recommends approval of the application; and

WHEREAS, the application is brought on behalf of Yeshiva University (the “University”), a not for profit education institution; and

WHEREAS the site is located on the block bounded by Audubon Avenue, Amsterdam Avenue, 185th Street and 186th Street; and

WHEREAS, the site is an irregular “L”-shaped parcel located on the northwest corner of Amsterdam Avenue and West 185th Street, and has a total lot area of 31,929.16 sq. ft., with 214’-10” of frontage on Amsterdam Avenue, and 250’-0” of frontage on West 185th Street; the rear of the site also has 50’-0” of frontage on a private street known as Washington Terrace; and

WHEREAS, the site is occupied by the Library, the vacant site on which the New Building will be constructed, as well as two smaller parcels fronting on Washington Terrace; and

WHEREAS, the Library is located on the west side of Amsterdam Avenue between 185th Street and 186th Street; and

WHEREAS, the New Building will be located adjacent to the Library to the west, with frontage on the north side of 185th Street between Audubon Avenue and Amsterdam Avenue; and

WHEREAS, the New Building is proposed to be a six-story building, with a mechanical penthouse; the first through sixth floors will rise without setback to a height of 74’-11” in the front; and the mechanical penthouse will rise an additional 15 ft. with setbacks along all faces of the building; and

WHEREAS, specifically, as to the New Building, 19 foot rear yards will be provided on the interior lot portions of the site (30 foot rear yards are required); portions of the fifth and sixth floors encroach upon the applicable height and setback envelope at the front, small portions of the sixth floor and the mechanical penthouse exceed the permitted height and setback restrictions at the rear; and these offending building elements are not permitted obstructions that may penetrate the required sky exposure plane; and

WHEREAS, the applicant states that the only change to

the Library, an existing six-story structure, is the addition of a new glass enclosed entrance at the corner of West 185th Street and Amsterdam Avenue; and

WHEREAS, however, the applicant notes that it discovered that the Library as it currently exists does not comply with applicable lot coverage provisions as to corner lots, though the degree of non-compliance is minor; and

WHEREAS, upon construction of the New Building, the entire zoning lot will have the following parameters: a community facility and total floor area of 147,814 sq. ft., a community facility and total Floor Area Ratio of 4.6, a total lot coverage of 78 percent, buildings with wall heights of 95 ft. (the Library) and 74’-11” (the New Building), 19 foot rear yards, and 22 parking spaces; and

WHEREAS, the applicant represents that the New Building will fulfill significant programmatic needs of the University; and

WHEREAS, specifically, the applicant notes that the University requires more academic classroom space for its Jewish studies program, and the New Building will house an increased amount of classrooms, study halls, faculty halls, office space and larger lecture rooms devoted to this program; and

WHEREAS, in addition, because the New Building will be connected to the Library at the ground and second floors, useful access to the Library will increase; and

WHEREAS, the applicant also notes that the construction of the New Building will free up space elsewhere on the University main campus for general academic programs; and

WHEREAS, the applicant submitted a letter from a University official, outlining in detail these programmatic needs and how the New Building will assist in their fulfillment; and

WHEREAS, the Board agrees that the cited programmatic needs are legitimate; and

WHEREAS, the Board notes that as an educational institution, the University is entitled to special treatment under applicable zoning ordinances; and

WHEREAS, in addition to the cited programmatic needs, the applicant states that the following is a unique physical conditions which, in light of the programmatic needs, creates unnecessary hardship and practical difficulties in developing the site in compliance with the applicable bulk regulations: the irregular shape of the lot and the resulting shallow depth of the portion of the site where the New Building is proposed to be located; and

WHEREAS, specifically, the applicant notes that this portion of the site has a depth of only 53’-10”, but is considered a through lot in part, due to its adjacency to Washington Terrace; thus, this portion of the site is subject to height and setback restrictions at its front and rear; and

WHEREAS, the applicant notes that in order to comply with such restrictions, the depths of the floor plates of a complying building at the third through fifth floors would only be 33’-6”, and the depths of the floor plates of the floors above would only be 18’-6”; and

WHEREAS, the applicant notes that this would result in a building that would lack the functional space that the

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University's program requires; and

WHEREAS, in support of this discussion, the applicant provided an analysis of a complying scheme, as illustrated in plan form and as discussed in narrative; and

WHEREAS, the applicant notes that while the interior configuration of a complying building could be rearranged somewhat to ameliorate the effect of the constrained floor plates, the resulting building would not be able to accommodate the program's current enrollment; and

WHEREAS, the applicant also notes that the complying scheme would require structural alterations to the Library, which would eliminate the proposed new entrance as well as existing usable square footage; and

WHEREAS, based upon its consideration of the above, the Board finds that the aforementioned unique physical condition, when considered in conjunction with the programmatic needs of the University, creates unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since the University is a non-profit institution and the variance is needed to further its non-profit mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

WHEREAS, the applicant represents that the variance, if granted, will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, specifically, the applicant notes that the New Building, in terms of its scale and massing, would be compatible with the existing five-story and six-story residential buildings in the immediate area; and

WHEREAS, additionally, the applicant notes that there are much taller University buildings on the east side of Amsterdam Avenue between 183rd and 186th Streets; and

WHEREAS, the applicant also notes that most of the properties surrounding the New Building and the Library are owned by the University, including 10 of the 18 parcels that front on Washington Terrace; and

WHEREAS, the applicant notes that two of these parcels will remain vacant, to act as a buffer between the New Building and the other parcels; and

WHEREAS, the applicant contends that the University ownership of most of the surrounding parcels greatly mitigates any effect of the waivers; and

WHEREAS, finally, the applicant cites to the Environmental Assessment Statement submitted with the application, which concludes that there will be no significant vehicular or pedestrian traffic impacts, or other negative community impacts, related to the proposed action; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the applicant states that the hardship was not self-created and that no development that would meet

the programmatic needs of the University could occur on the subject site given the site's configuration; and

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the applicant represents that the requested waivers are the minimum waivers necessary to accommodate the University's programmatic needs; and

WHEREAS, the applicant also notes that the degree of the waivers is minor in most cases, and that the total amount of floor area on the site is well within what is permitted; and

WHEREAS, the Board agrees that the requested relief is the minimum necessary to allow the University to fulfill its programmatic needs; and

WHEREAS, in sum, the Board has determined that the evidence in the record supports the findings required to be made under ZR §72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to Sections 617.6(h) and 617.2(h) of 6NYCRR; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 07BSA009M, dated August 18, 2006; and

WHEREAS, the EAS documents show that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, the Department of Environmental Protection (DEP) has reviewed the following submissions from the Applicant: an August, 2006 Environmental Assessment Statement, a September, 2006 Phase I Report and February, 2007 Subsurface Phase II Investigative Report and February, 2007 Remedial Action and Construction Health and Safety plans; and

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of

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1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, within an R7-2 zoning district, the construction of a new six-story academic building and the legalization of an existing library building, which does not comply with zoning requirements related to lot coverage, rear yard, sky exposure plane permitted obstructions, front wall height, setback, and sky exposure plane, contrary to ZR §§ 24-11, 24-36, 24-391, 24-51, and 24-522, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 18, 2006"–one(1) sheet and marked "Received December 1, 2006"–eight (8) sheets; and *on further condition*:

THAT the bulk parameters of the buildings on the zoning lot shall be as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted

THAT this grant is contingent upon final approval from the Department of Environmental Protection before an issuance of construction permits other than permits needed for soil remediation; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 6, 2007.

327-05-BZ

APPLICANT– Rothkrug Rothkrug Weinberg & Spector, for John Damiano, owner.

SUBJECT – Application November 11, 2005 – Special Permit (§73-125) to allow a proposed ambulatory diagnostic treatment care facility (Use Group 4) limited to less than 10,000 sf of floor area to locate in an R3X district. The proposal calls for a one-story and cellar building and fourteen (14) accessory parking spaces.

PREMISES AFFECTED – 5135 Hylan Boulevard, between Wendy Drive and Bertram Avenue, Block 6499, Lot 95, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Adam Rothkrug.

For Opposition: Ludwig D'Angelo, Gasper Vultaggio and Lisa Vultaggio.

ACTION OF THE BOARD – Laid over to April 17, 2007, at 1:30 P.M., for continued hearing.

23-06-BZ

APPLICANT– Sheldon Lobel, P.C., for Kehilat Sephardim, owner.

SUBJECT – Application February 9, 2006 – Variance (§72-21) to legalize, in an R4 zoning district, the expansion of an existing three-story building currently housing a synagogue and accessory Rabbi's apartment. The proposal is requesting waivers for side yards (§24-35) and front yards (§24-34).

PREMISES AFFECTED – 150-62 78th Road, southwest corner of 153rd Street and 78th Road, Block 6711, Lot 84, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Irving Minkin.

ACTION OF THE BOARD – Laid over to April 17, 2007, at 1:30 P.M., for continued hearing.

29-06-BZ

APPLICANT– Sheldon Lobel, P.C., for Iliva Honovich, owner.

SUBJECT – Application February 16, 2006 – Zoning variance pursuant to ZR §72-21 to allow a proposed multiple family dwelling containing fourteen (14) dwelling units to violate applicable floor area, open space, lot coverage, density, height and setback, and front and side yards requirements; contrary to ZR §§23-141, 23-22, 23-45, 23-461 and 23-633. Premises is located within an R4 district. PREMISES AFFECTED – 1803 Voorhies Avenue, East 18th Street and East 19th Street, Block 7463, Lots 47, 49, Borough of Brooklyn.

COMMUNITY BOARD # 15BK

APPEARANCES –

For Applicant: Irving Minkin.

ACTION OF THE BOARD – Laid over to May 15, 2007, at 1:30 P.M., for continued hearing.

75-06-BZ

APPLICANT – Joseph P. Morsellino, Esq., for Cord Meyer Development, owner.

SUBJECT – Application April 25, 2006 – Zoning variance pursuant to §72-21 to allow a proposed twenty-one (21) story residential building with ground floor retail and community facility uses to violate applicable FAR (§23-142 and §35-22), open space ratio (§23-142, §35-22 and §35-33) and sky exposure plane (§23-632) regulations. The proposed building would include 136 dwelling units and 146 parking spaces. The project site is located within an R7-1/C1-2 zoning district.

PREMISES AFFECTED – 108-20 71st Avenue, northeast corner of Queens Boulevard and 71st Avenue, Block 2224, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to May 15, 2007, at 1:30 P.M., for continued hearing.

86-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Emil Moshkovich,

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owner.

SUBJECT – Application May 5, 2006 – Variance (§72-21) to allow Use Group 7 (tire sales with installation services) and Use Group 16 (automotive repair) in an R3-2/C1-2 district; contrary to use regulations (§32-10). An as-of-right eating and drinking establishment (Use Group 6) is also proposed. Additionally, a Special Permit under §73-44 is requested to allow the reduction of required off-street parking requirements.

PREMISES AFFECTED – 145-70 Guy R. Brewer Boulevard, northwestern corner of the intersection between Guy Brewer and Farmers Boulevards, Block 13309, Lots 36, 42, 44, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Jordan Most, Emil Moshkovich and Robert Pauls.

ACTION OF THE BOARD – Laid over to April 24, 2007, at 1:30 P.M., for continued hearing.

118-06-BZ

APPLICANT– Harold Weinberg, P.E., for Moshe Cohn, owner.

SUBJECT – Application June 9, 2006 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary lot coverage, open space and floor area, ZR §23-141(a)) and rear yard, ZR §23-47 in an R3-1 zoning district.

PREMISES AFFECTED – 71 Beaumont Street, east side, 220' north of Hampton Avenue and Shore Boulevard, Block 8728, Lot 77, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Harold Weinberg.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4

Negative:.....0

ACTION OF THE BOARD – Laid over to April 10, 2007, at 1:30 P.M., for decision, hearing closed.

156-06-BZ

APPLICANT – Alfonso Duarte, for Ally Basheer, owner.

SUBJECT – Application July 13, 2006 – Variance (§72-21) for the legalization to a single family home for the enlargement on the second floor which does not comply with front yard (§23-45) zoning requirements in an R-2 zoning district.

PREMISES AFFECTED – 267-04 83rd Avenue, southeast corner of 267th Street, Block 8779, Lot 41, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Alfonso Duarte and Beaheer Ally.

ACTION OF THE BOARD – Laid over to May 8,

2007, at 1:30 P.M., for continued hearing.

177-06-BZ

APPLICANT– Sheldon Lobel, P.C., for 1840 EMAB LLC, owner.

SUBJECT – Application August 16, 2006 – Special permit (§§ 11-411, 11-413). On a lot consisting of 9,700 SF, in a C2-2 in R3A district, permission sought to legalize auto repair and sale of used cars (UG 16). The existing and proposed FAR is .14 for the one-story commercial building.

DOB Objection: Section 32-25: Auto repair and auto sales (UG16) not permitted in C2-2 district.

PREMISES AFFECTED – 1840 Richmond Terrace, Clove Road and Bodine Street, Block 201, Lot 32, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Irving Minkin.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4

Negative:.....0

ACTION OF THE BOARD – Laid over to April 10, 2007, at 1:30 P.M., for decision, hearing closed.

214-06-BZ

APPLICANT– Walter T. Gorman, P.E., for Sidney Esikoff & Norman Fieber, owners.

SUBJECT – Application August 24, 2006 – Special Permit (§11-411) for the re-establishment and extension of term for an existing gasoline service station, which has been in continuous operation since 1953. R3-2 zoning district.

PREMISES AFFECTED – 196-25 Hillside Avenue, northwest corner of 197th Street, Block 10509, Lot 265, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: John Ronan.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4

Negative:.....0

ACTION OF THE BOARD – Laid over to April 10, 2007, at 1:30 P.M., for decision, hearing closed.

216-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Leemilt's Petroleum, Inc., owner.

SUBJECT – Application August 28, 2006 – Special Permit (§11-411 and §11-412) for the re-establishment and extension of term for an existing automotive service station, which has been in continuous operation since 1961 and legalization of certain minor amendments to previously

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approved plans. C1-4/R6-A zoning district.

PREMISES AFFECTED – 35-17 Junction Boulevard, east side of Junction Boulevard between 35th and 37th Avenues, Block 1737, Lot 49, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4

Negative:.....0

ACTION OF THE BOARD – Laid over to April 15, 2007, at 1:30 P.M., for decision, hearing closed.

260-06-BZ

APPLICANT – J Owen Zurhellen, III, for Charlton Cooperative Corp., owner; TRI IPPON, LLC, lessee.

SUBJECT – Application September 26, 2006 – Special Permit (§73-36) to allow the proposed PCE on the first floor in a six-story (plus basement) building located in a M1-6 zoning district. The proposal is contrary to Sections 42-00 and 42-31.

PREMISES AFFECTED – 547 Greenwich Street, a/k/a 112 Charlton Street, southeast corner of Greenwich and Charlton Streets, Block 597, Lot 45, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: J. Owen Zurhellen, III; Doris Diether, CB #2 and Phil Mouquinho.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4

Negative:.....0

ACTION OF THE BOARD – Laid over to April 10, 2007, at 1:30 P.M., for decision, hearing closed.

263-06-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Breindi Amsterdam and Eli Amsterdam, owners.

SUBJECT – Application September 26, 2006 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary open space and floor area §23-141(a) in an R2 zoning district.

PREMISES AFFECTED – 2801-2805 Avenue L (a/k/a 1185-1195 East 28th Street) northeast corner of the intersection of East 28th Street and Avenue L, Block 7628, Lot 8, Borough of Brooklyn.

COMMUNITY BOARD # 14BK

APPEARANCES –

For Applicant: Lyra Altman.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4

Negative:.....0

ACTION OF THE BOARD – Laid over to March 20, 2007, at 1:30 P.M., for decision, hearing closed.

264-06-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Miriam Schwartz and Michael Schwartz, owners.

SUBJECT – Application September 26, 2006 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary open space and floor area (§23-141(a)); lot coverage (§23-141(b)); side yard (§23-461) and rear yard (§23-47) in an R3-2 zoning district. PREMISES AFFECTED – 1632 East 28th Street, East 28th Street between Avenue P and Quentin Road, Block 6790, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra Altman and David Shteierman.

For Opposition: Jack H. Cooperman, Sol Mermelsion, Marion Setton and Ed Jaworski.

ACTION OF THE BOARD – Laid over to April 17, 2007, at 1:30 P.M., for decision, hearing closed.

283-06-BZ

APPLICANT – Moshe M. Friedman, for Tammy Hirsch, owner.

SUBJECT – Application October 23, 2006 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary open space and floor area (§23-141(a)); side yard (§23-461) and rear yard (§23-47) in an R2 zoning district.

PREMISES AFFECTED – 1372 East 29th Street, for 190' north of intersection formed by East 29th Street and Avenue N, Block 7664, Lot 76, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES – None.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4

Negative:.....0

ACTION OF THE BOARD – Laid over to March 20, 2007, at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: 6:00 P.M.